

Senate Amendment 3290

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1 1 Amend House File 882, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 33, by inserting after line 33, the
1 4 following:
1 5 <Sec. _____. NEW SECTION. 297A.1 STATE POLICY.
1 6 The general assembly finds that investment in
1 7 energy conservation measures by public facilities can
1 8 reduce the amount of energy consumed by the facilities
1 9 and produce both immediate and long-term cost savings.
1 10 It is the policy of this state to encourage school
1 11 districts, area education agencies, community
1 12 colleges, public universities, municipalities,
1 13 counties, and state institutions to invest in facility
1 14 technology infrastructure upgrades and energy
1 15 conservation measures that reduce energy consumption,
1 16 produce a cost savings, or improve the quality of
1 17 indoor air, or when economically feasible, to build,
1 18 operate, maintain, or renovate public facilities in a
1 19 manner which will minimize energy consumption or
1 20 maximize energy savings. It is additionally the
1 21 policy of this state to encourage reinvestment of
1 22 energy savings resulting from energy conservation
1 23 measures and facility technology infrastructure
1 24 upgrades into additional and continued energy
1 25 conservation efforts, including but not limited to
1 26 school instructional computer hardware, software, and
1 27 other technology equipment or training needs to
1 28 maintain or operate technology systems. The
1 29 department of natural resources, in consultation with
1 30 the department of education, shall adopt rules
1 31 pursuant to chapter 17A for the administration of this
1 32 chapter.
1 33 Sec. _____. NEW SECTION. 297A.2 DEFINITIONS.
1 34 As used in this chapter, unless the context
1 35 otherwise requires:
1 36 1. "Energy conservation measure or facility
1 37 technology infrastructure upgrade" means an employee
1 38 training program, facility alteration, or equipment to
1 39 be used in new construction, including an addition to
1 40 an existing facility, that reduces energy costs and
1 41 includes, but is not limited to, any of the following:
1 42 a. Insulation of the facility structure or systems
1 43 within the facility.
1 44 b. Storm windows or doors, caulking or weather
1 45 stripping, multiple-glazed windows or doors, heat=
1 46 absorbing or heat=reflective glazed and coated window
1 47 or door systems, additional glazing, reductions in
1 48 glass area, or other window and door system
1 49 modifications that reduce energy consumption.
1 50 c. Automated or computerized energy control
2 1 systems including related software=required network
2 2 communication wiring, computer devices, wiring and
2 3 support services for building maintenance or delivery
2 4 of energy conservation services. Any cost for support
2 5 services that will continue beyond the length of the
2 6 contract shall be identified specifically in the
2 7 energy performance-based evaluation, including but not
2 8 limited to continuation of personnel costs. Energy
2 9 control system technology infrastructure may be used,
2 10 as applicable, for other public corporation technology
2 11 needs. Other technology infrastructure improvements
2 12 may be implemented if the cost is supported by the
2 13 energy savings generated by other energy conservation
2 14 measures or facility technology infrastructure
2 15 upgrades.
2 16 d. Heating, ventilating, or air conditioning
2 17 system modifications or replacements.
2 18 e. Replacement or modification of lighting
2 19 fixtures to increase the energy efficiency of the
2 20 lighting system which, at a minimum, shall conform to
2 21 the applicable state or local building code.
2 22 f. Energy recovery systems.
2 23 g. Renewable energy systems, such as solar,
2 24 biomass, and wind.

2 25 h. Devices that reduce water consumption or sewer
2 26 charges.
2 27 i. Any measure not otherwise defined that produces
2 28 energy cost savings or British thermal unit
2 29 reductions.
2 30 An energy conservation measure or facility
2 31 technology infrastructure upgrade as defined in this
2 32 subsection shall be outside the scope of routine
2 33 maintenance and installation of existing equipment.
2 34 2. "Energy cost savings" means a measured
2 35 reduction in fuel, energy, or operation and
2 36 maintenance cost savings created from the
2 37 implementation of one or more energy conservation
2 38 measures or facility technology infrastructure
2 39 upgrades when compared with an established baseline
2 40 for previous fuel, energy, or operation and
2 41 maintenance costs.
2 42 3. "Energy performance-based contract" means a
2 43 contract for the recommendation and implementation of
2 44 energy conservation measures or facility technology
2 45 infrastructure upgrades which includes, at a minimum,
2 46 all of the following:
2 47 a. The design and installation of equipment to
2 48 implement one or more energy conservation measures or
2 49 facility technology infrastructure upgrades, and, if
2 50 applicable, operation and maintenance of such measures
3 1 or upgrades.
3 2 b. The amount of any actual annual energy and
3 3 operational cost savings. The amount shall be
3 4 guaranteed in the contract by the qualified provider
3 5 and verified by a professional engineer or registered
3 6 architect who is not employed or has contracted with
3 7 the qualified provider. The verification shall occur
3 8 using a process established by the department of
3 9 natural resources.
3 10 4. "Energy performance-based evaluation" means
3 11 performance of an energy audit, data collection, or
3 12 other related analyses preliminary to the undertaking
3 13 of energy conservation measures or facility technology
3 14 infrastructure upgrades, and maintenance of project
3 15 monitoring and data collection to verify
3 16 postinstallation energy consumption and energy-related
3 17 operating costs. The department of natural resources
3 18 shall establish performance guidelines that consider
3 19 federal energy management program guidelines. Any
3 20 cost for support services for building maintenance or
3 21 delivery of energy conservation services that will
3 22 continue beyond the length of an energy
3 23 performance-based contract shall be identified
3 24 specifically in the energy performance-based
3 25 evaluation.
3 26 5. "Maintenance cost savings" means auditable
3 27 operating expenses eliminated and future capital
3 28 replacement expenditures avoided as a result of new
3 29 equipment installed or services performed by the
3 30 qualified provider including, but not limited to,
3 31 savings which can be measured by an itemization of the
3 32 maintenance savings cost between operational savings
3 33 and personnel savings.
3 34 6. "Public corporation" means a school district as
3 35 described in chapter 274, a community college as
3 36 defined in chapter 260C, a public university, city,
3 37 county, or state agency.
3 38 7. "Qualified provider" means a business or person
3 39 that has been qualified by the department of natural
3 40 resources. The department of natural resources shall
3 41 adopt rules pursuant to chapter 17A to establish a
3 42 qualifications process. The process shall consider
3 43 accreditation by the national association of energy
3 44 service companies, certification by the association of
3 45 energy engineers, or professional licensure as an
3 46 engineer or registered architect in Iowa. A business
3 47 or person accredited by the national association of
3 48 energy service companies shall be qualified in Iowa.
3 49 Sec. _____. NEW SECTION. 297A.3 REQUESTS FOR
3 50 PROPOSALS EVALUATION.
4 1 1. Prior to entering into an energy
4 2 performance-based contract as provided in section
4 3 297A.4, a public corporation shall announce a request
4 4 for proposals. A request for proposals shall be
4 5 advertised for public bidding and let publicly. The

4 6 model request for proposals format developed by the
4 7 department of natural resources shall be made
4 8 available for use by public corporations. A public
4 9 corporation shall administer the public bidding and
4 10 letting, requesting innovative solutions and proposals
4 11 for energy conservation measures and facility
4 12 technology infrastructure upgrades. Proposals
4 13 submitted shall be sealed. If the model request for
4 14 proposals format is not used, the request for
4 15 proposals shall include, at a minimum, all of the
4 16 following:

4 17 a. Name and address of the public corporation.
4 18 b. Name, address, title, and telephone number of a
4 19 contact person for the public corporation.
4 20 c. Notice indicating that the public corporation
4 21 is requesting qualified providers to propose energy
4 22 conservation measures and facility technology
4 23 infrastructure upgrades to be provided pursuant to an
4 24 energy performance-based contract.
4 25 d. Date, time, and place where proposals must be
4 26 received.

4 27 e. Evaluation criteria for assessing the
4 28 proposals.

4 29 f. Any other stipulations and clarifications the
4 30 public corporation may require.

4 31 2. The public corporation shall evaluate any
4 32 sealed proposal from a qualified provider. Sealed
4 33 proposals shall be opened by a designated member or
4 34 employee of the governing body of the public
4 35 corporation at a public meeting during which the
4 36 contents of the proposals shall be announced. Each
4 37 person submitting a sealed proposal must receive at
4 38 least ten days' notice of the time and place of the
4 39 public meeting at which the public corporation
4 40 proposes to award an energy performance-based
4 41 contract. The public corporation shall analyze each
4 42 qualified provider's estimate of the cost of design,
4 43 engineering, installation, maintenance, repairs, debt
4 44 service, conversions to a different energy or fuel
4 45 source, and postinstallation project monitoring, data
4 46 collection, and reporting. The evaluation shall
4 47 include a detailed analysis of whether the energy
4 48 consumed or the operating costs, or both, will be
4 49 reduced. Selection of the qualified provider shall,
4 50 through either a request for proposals process or
5 1 other purchasing method, constitute selection of the
5 2 best value based on life cycle cost analysis of the
5 3 component parts and systems to the public corporation.
5 4 Preference shall be given to proposals that utilize
5 5 local or Iowa-based financial institutions.
5 6 Preference may also be given to proposals that
5 7 minimize a negative impact on school staffing. The
5 8 public corporation may enter into an energy
5 9 performance-based contract.

5 10 Sec. ____ NEW SECTION. 297A.4 AWARD OF
5 11 GUARANTEED ENERGY COST SAVINGS CONTRACT.

5 12 1. A public corporation shall select a qualified
5 13 provider that best meets the needs of the public
5 14 corporation based on life cycle cost analysis. After
5 15 completing its evaluation of the proposals received
5 16 pursuant to section 297A.3, the public corporation
5 17 shall provide public notice of the public meeting at
5 18 which it proposes to award an energy performance-based
5 19 contract. The public notice shall contain the names
5 20 of the parties to the proposed contract and the
5 21 purpose of the contract. The public notice shall be
5 22 published at least ten days prior to the public
5 23 meeting. A public corporation may enter into an
5 24 energy performance-based contract with a qualified
5 25 provider if it finds, after evaluating the proposal
5 26 pursuant to section 297A.3, that the total amount the
5 27 public corporation would spend on the design,
5 28 implementation, financing, and performance management
5 29 of the energy conservation measures or facility
5 30 technology infrastructure upgrades and modernization
5 31 measures recommended in the proposal would not exceed
5 32 the amount to be saved in either energy or operational
5 33 costs, or both, within a twenty-year period from the
5 34 date of installation of such measures or upgrades,
5 35 based on life-cycle costing calculations, if the
5 36 recommendations in the proposal are followed. Each

5 37 individual improvement must pay for itself within the
5 38 useful life of the equipment, as determined by the
5 39 American society of heating, refrigeration, and air
5 40 conditioning engineers.

5 41 2. A public corporation may enter into a financing
5 42 agreement as provided in sections 473.19, 473.20, and
5 43 473.20A, for the purchase and installation of energy
5 44 conservation measures, or facility technology
5 45 infrastructure upgrades and modernization measures, or
5 46 may secure financing through a third party for the
5 47 purchase and installation of energy conservation
5 48 measures, facility technology infrastructure upgrades,
5 49 or modernization measures. Energy performance-based
5 50 contracts may extend beyond the fiscal year in which
6 1 they become effective, and may be automatically
6 2 renewed annually for up to twenty years.

6 3 3. A qualified provider shall be responsible for
6 4 the measurement and verification of the savings
6 5 generated by the energy conservation measures or
6 6 facility technology infrastructure upgrades and
6 7 modernization measures. The process to be used for
6 8 the measurement and verification shall follow the
6 9 guidelines of the federal energy management program.
6 10 A public corporation shall have these savings verified
6 11 by a qualified independent third party on an annual
6 12 basis. The verification shall also include an annual
6 13 reconciliation of the guaranteed energy cost savings
6 14 for the life of any financing agreement obligations or
6 15 until the project is repaid from energy savings. The
6 16 cost of this verification shall be a part of the
6 17 contract with the qualified provider. The department
6 18 of natural resources shall establish the
6 19 qualifications necessary for a business or person to
6 20 become a qualified independent third party. A
6 21 business or person accredited by the national
6 22 association of energy service companies shall be
6 23 qualified in Iowa.

6 24 4. A selected qualified provider shall provide a
6 25 one hundred percent performance guarantee bond to the
6 26 public corporation for the installation and faithful
6 27 performance of the installed energy conservation
6 28 measures or facility technology infrastructure
6 29 upgrades as outlined in the energy performance-based
6 30 contract.

6 31 5. A public corporation has the right to terminate
6 32 an energy performance-based contract at any time
6 33 provided that written notice to the qualified provider
6 34 is provided at least thirty days prior to termination.
6 35 All qualified providers shall include clear statements
6 36 and requirements regarding contract termination as
6 37 part of the contract documentation. The documentation
6 38 shall clearly state the options of the public
6 39 corporation to satisfy the contract early and include
6 40 all associated costs. The documentation shall also
6 41 state the rights of a public corporation under a
6 42 contract for terminating the contract due to
6 43 nonperformance, for exercising rights pursuant to the
6 44 performance guarantee bond, and for listing all costs
6 45 and responsibilities for payment of any remaining debt
6 46 associated with energy and operational savings
6 47 projects already implemented. The information and
6 48 associated costs described in this subsection shall be
6 49 provided to a public corporation before an energy
6 50 performance-based contract is approved.

7 1 6. An energy performance-based contract shall
7 2 include a written guarantee by a qualified provider
7 3 that the amount of any actual energy and operational
7 4 savings shall be guaranteed. The amount must also
7 5 meet or exceed the total annual contract payments,
7 6 including financing charges, made by the public
7 7 corporation over the life of the contract. A
7 8 qualified provider shall reimburse a public
7 9 corporation for any shortfall of guaranteed energy
7 10 cost savings projected in the contract. Actual
7 11 savings documentation shall be reconciled on an annual
7 12 basis as provided in the contract. Any savings
7 13 shortfall shall be made whole by the qualified
7 14 provider within sixty days. Excess documented and
7 15 mutually agreed upon savings may be carried over to
7 16 future years. A qualified provider shall provide the
7 17 public corporation with a one hundred percent

7 18 performance guarantee bond for installation and
7 19 retrofit projects. A qualified provider shall
7 20 guarantee the savings for the length of the contract
7 21 and shall also provide the guaranteed performance
7 22 bonds on an annual basis renewed each year for the
7 23 term of the contract. An energy performance-based
7 24 contract may provide for payments over a period of
7 25 time, not to exceed twenty years.
7 26 7. Nothing in this chapter shall be construed to
7 27 prohibit public corporations, school corporations,
7 28 community colleges, or institutions under the control
7 29 of the state board of regents from utilizing savings
7 30 resulting from energy conservation measures, in excess
7 31 of the amount needed to pay for the measures, for
7 32 discretionary budget operations including but not
7 33 limited to school instructional computer hardware,
7 34 software, technology training, upgrades, or other
7 35 similar uses.>
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